

REMARKS

By this amendment, claims 34 and 57-59 are canceled; claims 1, 3, 11 and 12 are amended. Claims 7-12 were indicated as allowable. Claims 1, 3, 7-12, 33, 35, 36, and 60 are pending. Claim 1 is amended to recite subject matter previously claimed in claim 12 that was indicated as allowable. Claim 12 is amended to recite subject matter disclosed in the specification at page 21, lines 13-16. Claim 3 is amended to recite subject matter discussed in the specification at page 24, lines 16-18. No issue of new matter arises.

In view of the amendment and associated Remarks, reconsideration and withdrawal of all outstanding rejections are deemed proper.

Telephone interview – Objection to allowable claims

Applicants express their gratitude for the courtesies extended by Examiner Sullivan during a November 28 telephonic exchange with Applicants' representative. Substance of the interview pertained to discussion of claim status, independent v dependent and objected to or allowed. In a December 12, 2007 Interview Summary the Examiner indicated that claims 7-12 were allowed. Applicants gratefully acknowledge indication of allowable subject matter and allowance of claims. However, Applicants, for the record, wish to indicate that claims 11 and 12 previously were dependent on claim 1 and thus could be properly objected to. Thus the status understood by Applicants before entry of the present amendment is: Claims 7-10 – allowed; claims 11 and 12 – objected to. The present amendment retains the dependent status of claim 12 which is now dependent from amended allowable claim 1, but claim 11 is now independent thereby overcoming the objection.

Claim Objection

Claim 57 is objected to under 37 CFR §1.75(c), for allegedly failing to further limit subject matter of claim 1. Claim 57 is canceled. Reconsideration and withdrawal of this objection are respectfully requested.

Rejection under 35 USC §102

Claims 1, 3, 33-36 and 57-60 were rejected under 35 USC §102(a) over NCBI database AC012230.2. Claims 34 and 57-59 are canceled. Reconsideration and withdrawal of this rejection with respect to the canceled claims are respectfully requested.

The applied reference is alleged to disclose a 540 bp sequence that has 100% identity with positions 2130-2670 (541 bp) of SEQ ID Nos. 1 and 3. Claims 1 and 3 are amended to recite subject matter that is not alleged to be disclosed by the applied reference. Claims that ultimately depend from claim 1 are patentable over the applied art for at least the same reasons that claim 1 is patentable over the applied art. Claim 33 is amended to recite subject matter not taught in the applied reference. Reconsideration and withdrawal of this rejection are respectfully requested.

Conclusion

In view of the above amendments and remarks, Applicants respectfully request reconsideration and withdrawal of all pending rejections. Applicants respectfully submit that the application is now in condition for allowance and request prompt issuance of a Notice of Allowance.

Fees

No fees not otherwise provided for are believed to be necessitated by the instant response. However, should this be in error, authorization is hereby given to charge Deposit Account no. 18-1982 for any underpayment, or to credit any overpayments.

Respectfully submitted,

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